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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,633	07/01/2003	Eric Wisniewski	Q75615	4950

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EXAMINER	
NGUYEN, KHAI MINH	
ART UNIT	**PAPER NUMBER**
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/609,633	WISNIEWSKI ET AL.	
	Examiner	Art Unit	
	KHAI M. NGUYEN	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 May 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 5/22/2008 have been fully considered but they are not persuasive.

Regarding claims 1 and 5, Applicant argues, on pages 2-8 of the remarks, that Sounviervi and Schuetze do not disclose, teach, or suggest "identifying at said mediation server a change in used data exchange format from a first data exchange format to a second identified data exchange format; and dynamically switching from first data exchange format to said second identified data exchange format".

The Examiner respectfully disagrees with Applicant's argument because the current claim language is broad enough to be met by Sounviervi and Schuetze. Sounviervi and Schuetze clearly disclose identifying at said mediation server (see Sounviervi, col.3, lines 46-57 (identifies the type of message coming)) a change in used data exchange format from a first data exchange format to a second identified data exchange format (see Sounviervi, col.2, line 61 to col.3, line 3 (conversion file contains information about the message formats used by the different network elements and how the contents of the fields are to converted from one format to another)); and dynamically switching from first data (see Schuetze, col.3, lines 24-25 (sending electronic mail in one of a plurality of distinct formats)) exchange format to said second identified data exchange format (see Schuetze, col.3, lines 25-27, gateway means for converting the electronic mail into the new format (recipient's format)).

Regarding claim 4, Applicant argues, on pages 6-8 of the remarks, that Sounviervi and Schuetze do not disclose, teach, or suggest " data exchanged between said at least one of said network element and said Operation and Maintenance Center contains a new software version download from the Operation and Maintenance Center to said at least one of said network element ".

The Examiner respectfully disagrees with Applicant's argument because the current claim language is broad enough to be met by Sounviervi and Schuetze. Sounviervi and Schuetze clearly disclose data exchanged between said at least one of said network element (see Sounviervi, col.2, lines 61-65) and said Operation (see Suonvieri, fig.4, NMS) and Maintenance Center contains a new software version download (see Schuetze, col.6, lines 36-46) from the Operation and Maintenance Center (see Suonvieri, fig.4, NMS) to said at least one of said network element (see Suonvieri, col.2, lines 61-65).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 4-5, and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suonviervi (U.S.Pat-6445919), and further in view of Schuetze et al. (U.S.Pat-6101320).

Regarding claim 1, Suonvieri teaches method for providing service management to network elements of a cellular communication network (fig.4, NMS), said network elements communicating with an Operation and Maintenance Center (fig.4, NMS) of the communication network communicating center of said cellular communication network by sending data having a data exchange format specific data format at a mediation server (fig.5, col.2, lines 45-60), wherein said method comprises:

identifying at said mediation server (fig.5, conversion file) a change in used data exchange format from a first data exchange format to a second identified data exchange format (fig.5, abstract, col.2, lines 45-60); and

Suonvieri fails to specifically disclose dynamically switching from first data exchange format to said second identified data exchange format. However, Schuetze teaches dynamically switching from first data exchange format to said second identified data exchange format (col.3, lines 17-47). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Schuetze to Suonvieri to provide method for exchanging data between separate organizations which may use dissimilar data formats to receive and send data.

Regarding claim 4, Suonvieri and Schuetze further teach method according to claim 1, wherein said data exchanged between said at least one of said network element and said Operation (see Suonvieri, fig.4, NMS) and Maintenance Center contains a new software version download (see Schuetze, col.6, lines 17-46) from the Operation and Maintenance Center to said at least one of said network element (see Suonvieri, fig.5, abstract, col.2, lines 45-60).

Regarding claim 5, Suonvieri teaches a mediation server (fig.5) used for translating a first data exchange format used by a network element of a cellular communication network to a second data exchange format used by an center specific data format used by an Operation and Maintenance (fig.4, NMS); wherein said mediation server (fig.5, fig.5, conversion file) comprises:

mean for identifying a change from said first used data exchange format to said second identified data exchange format (fig.5, abstract, col.2, lines 45-60); and

Suonvieri fails to specifically disclose dynamically switching from first used data exchange format to said second identified data exchange format. However, Schuetze teaches dynamically switching from first used data exchange format to said second identified data exchange format (col.3, lines 17-47). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Schuetze to Suonvieri to provide method for exchanging data between separate organizations which may use dissimilar data formats to receive and send data.

Regarding claim 7, Suonvieri and Schuetze further teach the mediation server according to claim 5, wherein the mediation server is a software component part of said Operation and Maintenance Center (see Schuetze, fig.3, see Suonvieri, fig.4).

Regarding claim 8, Suonvieri and Schuetze further teach the mediation server according to claim 5, wherein the mediation server (see Suonvieri, fig.5 conversion file) is a software component on a standalone device connectable to said Operation and Maintenance Center (NMS) (see Schuetze, fig.3, see Suonvieri, fig.4).

4. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suonviervi (U.S.Pat-6445919), in view of Schuetze et al. (U.S.Pat-6101320), and further in view of Lucas et al. (U.S.Pub-20050278710).

Regarding claim 2, Suonvieri and Schuetze further teach a method according to claim 1, wherein it further comprises the steps of:

representing said second identified data exchange format in an object oriented program (see Schuetze, col.1, lines 42-59, col.3, lines 17-47), and dynamically uploading the class using the Java programming language (not show) to switch from said firs data exchange format to said second identified data exchange format (see Schuetze, col.1, lines 42-59, col.3, lines 17-47).

Suonvieri and Schuetze fail to specifically disclose Java programming language. However, Lucas teaches Java programming language (paragraph 0054). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Lucas to Suonvieri and Schuetze to provide for manipulating data representation language based-objects in a native programming language environment.

Regarding claim 6 is rejected with the same reasons set forth in claim 2.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suonviervi (U.S.Pat-6445919), in view of Schuetze et al. (U.S.Pat-6101320), and further in view of Rubinstein et al. (U.S.Pat-6757373).

Regarding claim 3, Suonvieri and Schuetze further teach the method according to claim 1,

Suonvieri and Schuetze fail to specifically disclose selecting one out of a plurality of mediation servers for handling information from at least one of said network elements according to a predefined load balancing. However, Rubinstein teaches selecting one out of a plurality of mediation servers for handling information from at least one of said network elements according to a predefined load balancing (abstract, col.3, lines 17-31). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Rubinstein to Suonvieri and Schuetze to provided method for routing a call effect load balancing between mediation devices.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI M. NGUYEN whose telephone number is (571)272-7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent P. Harper can be reached on 571.272.7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

/Khai M Nguyen/
Examiner, Art Unit 2617

8/1/2008